

**MINUTES  
REGULAR MEETING  
RETIREMENT BOARD OF TRUSTEES  
EMPLOYEES' RETIREMENT SYSTEM OF THE CITY OF BATON ROUGE  
AND PARISH OF EAST BATON ROUGE  
JUNE 24, 2021**

The regular meeting of the Retirement Board of Trustees was held in the Metropolitan Council Chambers at 222 St. Louis Street, and was called to order at 10:00 a.m. by Board Chairman Ms. Marsha Hanlon. Members present: Mr. J. Daniels, Mr. Brian Bernard, Mr. Mark LeBlanc, Mr. David West, and Chief Britt Hines. Absent: None. Staff present: Mr. Jeffrey Yates, Mr. Russell Smith, Mr. Mark Williams, and Mr. Kyle Drago. Others present: Ms. Denise Akers – legal counsel, Mr. Joe Toups – Council Budget Office, and Ms. Angie Savoy – Finance Administration.

Mr. Drago formally called the roll.

The chairman began by introducing Item 1, Reading and Approval of Minutes, and noted that there were minutes being considered for approval from the regular meeting of May 27, 2021 and from the Election Committee meeting of June 11, 2021, and called for motions.

**Motion by Mr. West, seconded by Mr. LeBlanc to suspend the reading of, and approve the minutes of the regular meeting of May 27, 2021 as presented.**

**No discussion and no objections.**

**Motion passed by those members present.**

**Motion by Mr. Bernard, seconded by Mr. LeBlanc to suspend the reading of, and approve the minutes of the Election Committee meeting of June 11, 2021 as presented.**

**No discussion and no objections.**

**Motion passed by those members present.**

The next item on the agenda was Item 3, Benefits Report, and the chairman called on Mr. Yates to present the report. Mr. Yates stated that there was nothing unusual on the report but pointed out two items for the Board's information. He stated that the report was in order as presented.

**Motion by Mr. Bernard, seconded by Mr. LeBlanc to approve the Benefits Report as presented.**

**No discussion and no objections.**

**Motion passed by those members present.**

The next item on the agenda was Item 4, DROP Notifications Report, and it was noted that this report was provided for informational purposes only, and no action was necessary.

The chairman then moved to Item 5, Consultants' Reports, and under Item 5A, Status on Pending Legal Matters, recognized Ms. Akers for her legal update report. Ms. Akers stated that although she included the entire summary of the securities litigations, she would discuss only the most recent changes that had occurred, and which were highlighted in yellow on the report. She noted that nothing on the report should require an executive session. She stated that there was no change in the Macrogenics suit, with all parties waiting on the ruling for the motion to dismiss. In the GreenSky litigation she noted that the Board's action from a prior meeting appeared to be progressing, and that a settlement amount had been agreed upon. There must be one more hearing regarding the settlement, which should take place in a month or two. Regarding the Impinj case, she stated that the court had granted the motion to distribute the settlement proceeds, and that CPERS had already received reimbursement of its out-of-pocket expenses. In the Energy Transfer case, the defendants were preparing to file an answer to the allegations against them, having been overruled in their motion to dismiss. Currently a schedule of case management deadlines was being developed. In Merrit Medical, the discovery phase had begun, and Ms. Akers read the scheduled deadlines for the various processes in the case.

The next item was Item 6, Committee Reports, and under Item 6C, Election Committee Reports, the chairman recognized Mr. Bernard for his report. Mr. Bernard called on Mr. Smith to give the report. Mr. Smith stated that a meeting of the Election Committee took place June 11, 2021 and that the committee established the calendar of events for the election, and that the nomination forms had been distributed on June 18<sup>th</sup> with a July 2<sup>nd</sup> deadline. He stated that there were about 149 members eligible to vote, and about 110 members eligible to run for the position.

Moving to Item 7, Staff Reports, the chairman noted that under Item 7C, there were invoices from the law offices of Akers & Wisbar, LLC, and called for a motion.

**Motion by Mr. LeBlanc, seconded by Mr. Daniels to approve payment for the charges to the law firm of Akers & Wisbar, LLC as presented.**

**No discussion and no objections.**

**Motion passed by those members present.**

Under Item 7E, there was an invoice from the offices of Foster & Foster, and the chairman called for a motion.

**Motion by Mr. Bernard, seconded by Mr. West to approve payment for the charges to the offices of Foster & Foster as presented.**

**No discussion and no objections.**

**Motion passed by those members present.**

Under 7F, there were no investment manager/consultant invoices for the Board's review.

Under 7G, Cash Activity Report, Mr. Drago presented the cash flow report and the budget comparison report and stated that these reports were for the Board's information.

The chairman then moved to Item 8A, Discussion of Opinion Letter and Follow-Up Letter from Tax Counsel Tarcza and Associates. She noted that this item had been heavily debated at the last regular meeting, and that the Board members should have received the proposed changes to the ordinance language. She noted that she still had questions, and that there had not been direct answers to some of the questions regarding RMD's, waiting period, etc. Ms. Akers stated that both Bob Tarcza and James Thompson seemed to okay the language submitted for their review, but there were other questions regarding earnings limits and the administration of detecting violations of the terms. Mr. Tarcza answered that most plans review for violations once a year, and he further stated that non-classified employees cannot be treated differently (with exemptions) than classified when it comes to a waiting period. He also responded that with the safe harbor language the allowable payroll hours could not be different for members who were 59 ½ versus those who were under that age. He also answered that there was no requirement for required minimum distributions (RMD) for a member who has returned to work part-time and was under the age of 59 ½. He noted that RMD's must be initiated for members who turned age 72, or if they retire at an age greater than 72. He was also asked in writing whether or not it was permissible to allow access to DROP distributions under age 59 ½, with Ms. Akers noting that the response was confusing with Mr. Tarcza stating that DROP did not exist in the IRC, but that it is a component in the defined benefit plan, and the DROP cannot be accessed until there is a bona fide separation from service, at which time it can be accessed and the proceeds are taxable when received. He also stated that DROP is subject to RMD's and is valued separate from the monthly benefit for that purpose. Otherwise, DROP is subject to the same rules as the rest of the plan, and if the regular benefit is suspended, so is access to the DROP. Mr. West stated that he believed the process of amending the ordinances could be made faster by having attorney Bob Tarcza in the room providing answers and then following up with a written letter. He noted that the process had started in February with no resolution thus far. It was agreed that Mr. Tarcza's comments and recommendations needed to be in writing before any action would take place. Ms. Akers stated that based on an Attorney General's opinion, it would be permissible to meet with Mr. Tarcza in executive session, since he would be providing attorney/client privileged information. She clarified that the Board could also meet with him in open session if they felt it was more appropriate. Mr. Daniels stated that he hoped to have Mr. Tarcza at a meeting so that strategic decisions could be made.

**Motion by Mr. LeBlanc, seconded by Mr. Daniels to defer this item and have tax counsel Mr. Bob Tarcza attend a Special Board meeting, prior to the regular July meeting, and to also include Mr. James Thompson and Ms. Shelley Johnson in the meeting.**

Under discussion Chief Hines asked whether or not action could be taken based on Mr. Tarcza's verbal comments and answers to questions prior to his meeting with the Board. Ms. Akers responded that any change in the ordinance language would need to be reviewed by tax counsel and the actuary. She also reminded the Board that the actuary had raised some issues from an actuarial point of view, although not necessarily a qualified plan view, such as the use of the term Normal Retirement Age, which is not defined. Ms. Hanlon noted that the IRC can change regarding ages, so it would be necessary to tie into the Code and not specific ages. Ms. Shelley Johnson questioned why return to work rules differed for members who participated in DROP versus those who did not. She also questioned the 30-day waiting period for returning to work, and recommended a 90-day to 6-month waiting period. Mr. LeBlanc stated that he agreed that the minimum waiting period should be at least 90 days in order to show an intent to retire. Mr. West noted that other pension systems have the retiring member sign a form noting that they intend to retire and separate from service, and that this form may provide greater evidence that the member did not intend to return to work. Another actuarial recommendation was that both employee and employer contributions be required of returning members. The current return to work rules were discussed, distinguishing members who participated in DROP versus those who did not. It was also discussed whether or not contributions should be collected for members who stayed working after DROP participation. In answer to a question from Mr. Bernard, Ms. Akers stated that normal retirement age is not defined in the IRC, but the plan can define it in the ordinances if it wishes. It is normally viewed as the date at which the member can qualify for a full benefit.

**No objections to the motion.**

**Motion passed by those members present.**

Moving to Item 8B, Discussion of Retirement Ordinance Language Amendment Regarding Age Penalty, Mr. Yates asked the Board to defer this item.

**Motion by Mr. LeBlanc, seconded by Mr. West to defer Item 8B to the next regular meeting.**

**No discussion and no objections.**

**Motion passed by those members present.**

Under Item 9, New Business, the chairman introduced Item 9A, Consideration of 2021 Supplemental Benefit Payment (SBP) Declaration, and recognized Mr. Yates for his comments. Mr. Yates stated that in the packets was a page from the actuarial valuation that showed how much funding was available for the SBP, which totaled just under \$3.4 million. He stated that the estimated amount for the SBP was less than \$1.5 million. He explained that the SBP was intended as a type of COLA, and starts qualifying members at \$450, escalating to a maximum of \$900. He noted that it pays the larger amounts to members who have been retired the longest and who had no or little participation in DROP. Also, the SBP is a one-time lump sum payment that is not guaranteed. He stressed that retirees are always very appreciative of the SBP. In answer to a question from Mr. Bernard, Mr. Yates stated that the bulk of the SBP funding came from the MERS contributions, which totaled about \$1.2 million for the most recent distribution. Another source has been the Retirement Benefit Adjustment differential from the year 2002 to the current year. Ms. Hanlon noted that the MERS contribution had increased greatly since the SBP was created, and that the criteria for paying the SBP had been changed a few years ago to exclude anyone who had ever received an Excess Benefit payment. Mr. Joe Toups stated that the SBP was set up not as a guaranteed benefit, but as something the Board voted on each year whether or not to declare. He stated that it was intended to help those who needed it most, but in his opinion it had morphed into something that makes payments to those who do not need it. He noted that at the time the SBP was created, it did not include funding from the MERS contribution, but when that was added, he did not realize the amount would be increasing so much. He wanted to cap the amount from MERS that could be used to fund the SBP, and allow the other MERS funds to go toward the regular funding for CPERS. He asked the Board to cut back on the amount of the MERS contribution going toward the SBP until the funding level of the System gets to a higher level. Ms. Akers read the ordinance section that authorizes declaration and payment of the SBP. Mr. Toups cited himself as an example of someone with a higher benefit and a 5-year DROP, but who will begin receiving the SBP after about 8 years of retirement. Mr. Yates noted that it was very difficult to try to determine payments by the need of the members without knowing the members' complete financial situation. He stated that there was no objective way to determine need, and that the Board might subject itself to litigation if the distribution method was arbitrary.

**Motion by Mr. LeBlanc, seconded by Mr. West to authorize (declare) the 2021 Supplemental Benefit Payment for distribution to eligible members in September.**

**No discussion and no objections.**

**Motion passed by those members present.**

Under Item 10, Administrative Matters, there were no items to address.

The chairman then continued with Item 11, Police Guarantee Trust Matters, and under Item 11A, PGT Benefits Report, recognized Mr. Yates who stated that the report contained three items which were in order as presented. He noted that all 3 members would likely have a guaranteed payment due upon DROP exit.

**Motion by Mr. LeBlanc, seconded by Mr. West to approve the PGT Benefits Report as presented.**

**No discussion and no objections.**

**Motion passed by those members present.**

Under Item 11B, the chairman noted that the PGT DROP Notifications Report was provided for the Board's information, and that no action was required. Mr. Bernard asked about the police member who was staying on after DROP, as to whether or not he would have his DROP account balance rolled out. Mr. Yates stated that Mr. Tarcza had advised the Retirement Office to continue to follow current policy until the ordinances are revised. Mr. Bernard asked if the ordinances provided for what the practice was, with Mr. Yates responding affirmatively. It was decided that an opinion should be requested from tax counsel for situations such as this one.

Under Item 11C, Consultants' Reports, there were no items to address.

There were no investment manager invoices under Item 11D.1 for the Board's review.

Under Item 11D.2 there were no invoices to address.

Under Item 11D.3, PGT Cash Activity Report, Mr. Drago presented the cash activity report and the budget comparison report.

Under Item 11E.1, there were no matters for consideration.

Under Items 11F Unfinished Business, and 11G, there were no matters to address.

The chairman then stated that she had a request from the Retirement Administrator to go into executive session to discuss a personnel matter.

**Motion by Ms. Hanlon, seconded by Mr. Bernard to go into executive session to discuss a personnel matter at 11:04 a.m.**

**No discussion and no objections.**

**Motion passed by those members present.**

Seeing no further items on the agenda, the chairman called for a motion to adjourn.

**Motion by Mr. LeBlanc, seconded by Mr. Bernard to adjourn at 11:25 a.m.**

**No discussion and no objections.**

**Motion passed by those members present.**

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**MARSHA HANLON**  
**CHAIRMAN, RETIREMENT BOARD OF TRUSTEES**

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**JEFFREY R. YATES**  
**RETIREMENT ADMINISTRATOR**